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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,313	02/22/2005	Howard Kneebone	37388-404800	5973
27717 7590 03/19/2007 SEYFARTH SHAW LLP 131 S. DEARBORN ST., SUITE2400 CHICAGO, IL 60603-5803			EXAMINER GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3749	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/19/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/525,313

Applicant(s)

KNEEBONE, HOWARD

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-3, 5-12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Augustine et al. (US 5,860,292). The claims are broadly and reasonably construed in light of the accompanying specification to be disclosed by Augustine as comprising:

an evaporation chamber **130** that is inflatable; and

fluid flow control means **164** for controlling the respective introduction and release of gas to and from the chamber to control the inflation of the chamber;

wherein in use the inflated chamber is adapted for containing a volume of liquid in a pool at a base thereof-to be evaporated and carried out of the chamber as a vapour by the gas passing across the pool as discussed in column 7 lines 45 through 57.

Augustine also discloses the claimed fluid flow control means is used to control the gas pressure and the flow rate of gas within the chamber at column 7 line 58 through column 8 line 2, a fan **164** for introducing gas into the evaporation chamber, the fan sealably positionable at a hole made in a wall of the chamber, and sealably positionable valve at column 6 line 59, diluent ingress substantial prevention arrangement with a flexible wall as discussed in column 6, single layer flexible wall material at column 6 line 34, plastic material at column 6 line 35, self supporting in an inflatable state as shown in figure 9, evaporation chamber in the inflatable state is arranged with a shape suitable

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for preventing the build up of a second fluid on the outer surface of the chamber as discussed in column 6, evaporation apparatus liquid body flotation adaptation as shown in figures 3 and 4, and passing, controlling, with causing method steps as discussed in columns 6-8.

Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kwake (US 3,676,880). The claims are broadly and reasonably construed in light of the accompanying specification to be disclosed by Kwake as comprising:

passing a mixture into an inflatable chamber to form a volume of liquid in a pool at a base thereof at column 2 line 51 through column 3 line 9 and at column 3 lines 41-47; and

controlling the respective ingress and release of gas into and out of the chamber above the pool whereby, over time, the substance is concentrated in the for subsequent collection at column 3 line 63 through column 4 line 49. Kwake also discloses wherein the liquid to be evaporated can be introduced into the inflatable chamber in a batchwise or a continuous manner at column 4 lines 50-69.

Claims 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Barr (US 4,122,561). The claims are broadly and reasonably construed in light of the accompanying specification to be disclosed by Barr as comprising:

passing a mixture into an inflatable chamber to form a volume of liquid in a pool at a base thereof at column 4 lines 14-63; and

causing a gas to flow across the pool of liquid in a the chamber to cause a concentration of the substance in the liquid over time at column 4 line 64 through

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column 6 line 10. Barr also discloses wherein the liquid to be evaporated can be introduced into the inflatable chamber in a batchwise or a continuous manner at column 6 line 30 through column 7 line 59.

***Claim Rejections - 35 USC § 103***

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine in view of Strussion et al. (US 6,182,463). Augustine discloses the claimed invention as rejected above, except for the claimed variable speed fan. Strussion, another evaporation apparatus, discloses a variable speed fan at column 4 lines 32-46. It would have been obvious to one skilled in the art to combine the teachings of Augustine with the variable speed fan, considered disclosed in Strussion for the purpose of allowing different volumetric flow rates of fluid in an evaporation apparatus.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine. Augustine discloses the claimed invention as rejected above, except for the claimed batch wise or continuous manner of treatment. It would have been an obvious matter of design choice to recite different manners of treatment since the claimed invention would be performed by the teachings of Augustine, regardless of the manner of treatment.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine in view of Gaugler (US 2,093,834). Augustine discloses the claimed invention as rejected above, except for the claimed reintroduction condenser means. Gaugler, another evaporation apparatus, discloses a reintroduction condenser means at right column of page 2 lines 37-59. It would have been obvious to one skilled in the art

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to combine the teachings of Augustine with the reintroduction condenser means, considered disclosed in Gaugler for the purpose of allowing condensation of fluid in an evaporation apparatus.

### ***Response to Arguments***

Applicant's arguments filed January 17, 2007 have been fully considered but they are not persuasive.

#### ***anticipation***

Current Office practice guides examination such that the claims are broadly and reasonably construed in light of the accompanying specification. In this application it is argued that the claimed "chamber is adapted for" should patentably distinguish the claimed invention over the prior art. However after a careful reading of primary reference Augustine, the chamber disclosed chamber is adapted for the intended use claimed. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Current Office practice also guides examination such that limitations argued from the specification to overcome the rejection cannot be imported to the claims. It is believed the each feature of the claim is disclosed in Augustine, as rejected above.

With respect to claims 18-21, the arguments are moot based on the new rejection necessitated by amendment.

Although applicants argue motivation is asserted lacking from the primary anticipatory reference, it is believed that motivation is more appropriate in obviousness rejections such that each claim element is anticipated by Augustine such that motivation is not appropriate in an anticipation rejection.

*obviousness*

In each of the obviousness rejections, primary references Augustine teaches each of the claimed features, except for a dependently claimed feature, as rejected above. It is believed that one of ordinary skill in the art would be motivated to combine the teachings of Augustine with the secondary reference teachings in order to obviate the claimed invention for the reasons discussed in each obviousness rejection. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571 272 4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG

March 6, 2007

